



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

JLP:ddj
Docket No: 4681-00
24 October 2000

MR. W. [REDACTED] USN
[REDACTED]

Dear MR. [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1780 PERS 604 of 31 August 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1780

PERS-604

31 AUG 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
MR. W. [REDACTED]

Ref: (a) CNPC memo 5420 PERS-00ZCB of 22 Aug 00
(b) Title 38, United States Code, Chapter 32

1. The following is provided in response to reference (a):

a. A review of Mr. [REDACTED] supporting documentation indicates he signed the Veterans Education Assistance Program (VEAP) Statement of Understanding (DD Form 2057) on 10 April 1980, which stated, "I understand I can enroll in the program at any time during my service on active duty." Per reference (b), the law governing VEAP, a person entering military service on or after 1 January 1977 and before 1 July 1985, had the right to enroll in VEAP at any time while on active duty before 1 July 1985. A second opportunity existed for members who initially failed to enroll before 1 July 1985. Members were allowed to enroll during a VEAP "open period" from 28 October 1986 through 31 March 1987. Mr. [REDACTED] was not enrolled in VEAP initially nor during the open period. By law, no new enrollments were allowed after the 31 March 1987 date established by Congress. Unfortunately, the fact that a Department of Defense form signed in 1980 stating a member can enroll at any time while on active duty does not override a later act of Congress.

b. Mr. [REDACTED] stated he requested to enroll in VEAP in 1987 while stationed on board USS SAIPAN (LHA2). He further stated his request was denied and his personnel office informed him VEAP had been disestablished. Mr. [REDACTED] did not state when in 1987 he made his request. If it was prior to 31 March 1987, which was the end of the VEAP open period, he may have been miscounseled on VEAP enrollment. Without knowledge of the date in 1987 Mr. [REDACTED] made his request, miscounseling cannot be

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MR. [REDACTED], [REDACTED]

substantiated. By law, we cannot approve Mr. [REDACTED]'s request to enroll in VEAP and defer to the Board to determine whether an injustice occurred which warrants relief.

2. PERS-604's point of contact is MS2(SW) [REDACTED] who can be reached at (DSN) 882-4244 or (C) 901-874-4244.

[REDACTED]

Captain, U.S. Navy
Director, Navy Drug & Alcohol,
Fitness, Education, &
Partnerships Division (PERS-60)